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Lawrence H. Norton
General Counsel
Federal Elections Commission
999 "E" Street, NW
Washington, DC 20463

MUR # 5866

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FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2006 OCT 27 1 P 12:44

October 26, 2006

RE: Violation of Federal Elections Law by Sen. Conrad Burns

Dear Mr. Norton,

This letter is intended to notify the Federal Elections Commission of an apparent violation of federal law by Senator Conrad Burns and his staff, and to initiate a formal complaint. In brief, I believe based on the evidence outlined below and attached, that Senator Burns and his campaign have participated in a scheme of illegal reimbursement of campaign donors.

The Burns campaign has been plagued by a variety of campaign finance-related problems. The latest one to surface appears to be a serious violation that deserves the immediate attention of the Commission.

Several independent investigations by the Montana State Legislature Auditor, the Montana news media, and now commissioned by the Board of Directors of the University of Montana have noted the unusually close relationship between leadership of the Inland Northwest Space Alliance, a not-for-profit corporation, Senator Burns and his former staff members serving as professional lobbyists. So far, the evidence has suggested various situations involving the sale of access and even arranging for federal funds in exchange for money and favors. This week, however, Montana newspapers reported new allegations pointing to violations within the jurisdiction of the FEC.

The *Missoulian* on October 24th quoted an unnamed source as saying

"I was always told, and it was talked about freely among INSA employees, that everyone at INSA owed allegiance to Conrad Burns because he was funding everyone's salaries. ... There was great pressure on employees to give money to Burns' re-election campaign."

This raises at least two potential FEC violations.

1. Employees of INSA were being pressured by their employers to contribute to Burns with the specter of their jobs hanging over their heads. This violates the FEC prohibition of making corporate contributions and making contributions in the name of another,
2. Sen. Conrad Burns was apparently directing taxpayer funds to INSA with the explicit or tacit understanding that employees of the firm would be campaign contributors. This violates the prohibition against providing money to others to effect political contributions.

Paid for by the Montana Democratic Party



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The FEC frequently has enforced matters involving corporations and employers who reimburse or coerce contributions from their employees. This case certainly seems to include that behavior. However, this also includes the apparent participation of a federal officeholder earmarking taxpayer funds to a nonprofit corporation with the expectation that funds would be returned to his own campaign, to his former chief of staff and his own daughter.

With the election a mere 13 days away, I would respectfully ask the FEC to review this complaint for potential violations quickly.

Sincerely,



James A. Farrell
Executive Director
Montana Democratic Party

Exhibits Attached

Subscribed and sworn to me this 26th day of October, 2006



Notary Public

Helena, Montana

My Commission expires 12/26/2009

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Review unearths more problems at UM space program

[Print Page](#)

By BETSY COHEN of the Missoulian

Controversy continues for a Missoula space group with ties to Sen. Conrad Burns, R-Mont.

A new accounting review shows, among other things, the organization's chief executive received three different salaries at the same time. And one of the company's former employees said in a Missoulian interview that staff members were expected to contribute to Burns' re-election campaign.

At issue is the Inland Northwest Space Alliance, which was created by the University of Montana in 2003 with \$3.1 million in NASA earmarks directed to the Missoula campus by Burns.

Initially intended to bring space research and space-related jobs to Montana, INSA was the focus of a state legislative audit earlier this year and is at the center of ongoing investigations by the FBI and NASA Office of Inspector General.

The recent accounting review was commissioned by Missoula attorney Milt Datsopoulos, who joined INSA's board of directors and became chairman of the board in November 2004.

Datsopoulos said he called for the review because INSA's viability is threatened while it is being investigated by the federal agencies.

The independent review, which was not a formal audit but rather an "agreed-upon procedures engagement," focused on the company's 2004-05 records and examined specific concerns brought forward by INSA's board of directors. The accounting firm provided recommendations, but was not asked to provide opinions.

Datsopoulos explained: "I was principally interested in finding out if there has been any misappropriation of funds, and I wanted to know how we institutionalize systems here that do hold everybody more accountable."

Among the problems uncovered: incomplete employee records, no formal compensation policies and multiple salaries paid to INSA's director, George Bailey. The review was performed by Anderson ZurMuehlen, a Montana-based accounting firm with expertise in government contracts.

The review also found that INSA does not have detailed records showing how it spent its federal funding. In fact, there is little documentation supporting INSA's expenditures.

The accounting firm said: INSA's procurement records do not include the required documentation for contracts over \$25,000. There is no documentation justifying the award of no-bid contracts. INSA does not itemize invoices, documenting time on lobbying and educational consulting. And during its directors' meetings, board minutes "do not reflect that board members with a conflict of interest abstained from voting on related party procurement transactions."

Now that INSA's internal investigation is completed, the findings, Datsopoulos said, "create some questions that need further investigation."

"I don't have any evidence that there was missing funds, but we need to delve further into that," he said. "I want every question answered. I don't want any remaining open."

Last week, Datsopoulos asked Anderson ZurMuehlen to review all of INSA's accounting; he wants a greater understanding of the flow of money as it came and went through INSA.

Burns supports the review of INSA, said Jason Klindt, the senator's communications director.

"Once funds are appropriated by Congress and distributed to a federal agency and then on to the receiving entity, it's up to those parties to ensure taxpayer dollars are spent properly," Klindt said. "If any of these funds were spent improperly, then those responsible should be punished."

"Taxpayers deserve accountability."

In August, investigators with the FBI and NASA Office of Inspector General interviewed two INSA employees. While he wasn't included in the discussions, Datsopoulos learned investigators inquired about transactions between INSA and UM, and the lobbying activity and expenses surrounding the two entities.

INSA, which was created by UM's Northern Rockies Center for Space Privatization in 2003, caught the attention of federal agencies earlier this year after the Missoulian outlined the company's peculiar and complicated relationship with UM.

The Missoulian discovered that the Montana Board of Regents never approved the creation of UM's space programs or its spinoff company, that INSA was funded by federal earmarks Burns helped bring to the university, and that several individuals associated with INSA are closely connected to Burns and have benefited from the federal earmarks.

The Missoulian also found that INSA and the Northern Rockies Center have a history of sharing employees, some of whom are related, have little to show for the \$3.1 million they received from Congress, and that more than half of the funding was spent at INSA.

Datsopoulos said he is eager to learn more about the money INSA paid to registered lobbyist Leo Giacometto, Burns' former chief-of-staff.

Between 2003 and 2005, INSA awarded a no-bid contract and paid out \$350,760 to Giacometto's lobbying firm, Gage LLC, and Compressus Inc., where Giacometto served as vice president and lobbyist, and where Burns' daughter, Keeley, served on the board of directors.

UM records also show that Giacometto served as UM's lobbyist in 2005, and was paid \$79,750.

While INSA's records are thin and don't explain why Giacometto was hired, or what he did or delivered to the company, UM's contract does explain why he was hired to represent the campus.

According to a UM procurement document:

"As a former chief-of-staff for Senator Conrad Burns, Giacometto has personal practice with securing

congressionally targeted grants for the benefit of the State. His unique skills and experience, combined with his intuitive understanding of Montana, provide Giacometto with unparalleled access and recognition. Furthermore, his professional relationships stretch beyond his high level Washington connections and across federal funding agencies. ... With two-thirds of our delegation serving on Appropriations, and with both of them Republicans, Giacometto is uniquely positioned to assist in advancing the university research agenda in Washington."

Given INSA's close connection to Burns and Burns' relationship with Jack Abramoff, who was convicted of a host of federal corruption charges stemming from lobbying abuse, Datsopoulos said he wants to know exactly where INSA's lobbying/educational consulting money went - and if any of it went to Abramoff.

"I know Abramoff was not used to lobby directly on the behalf of INSA, and I do know that Giacometto - or his group - was hired," Datsopoulos said. "I don't know where the money went once it got to Giacometto or to Compressus.

"I'm not aware of any impropriety, but we need to get answers to questions raised publicly," he said. "Those are important questions, and I intend to ask them and get them answered."

The hunt for answers, however, is a muddled pursuit.

In wake of the Missoulian's reports, the Montana Board of Regents asked the state Legislative Audit Division to investigate the university's role in the space programs. The legislative audit focused on UM's financial controls of the grant, but did not specifically address INSA, as it became a private nonprofit company in 2004.

Legislative auditors, however, found potential conflict-of-interest violations in the early relationships between UM and INSA. Auditors passed their findings on to the state attorney general, who passed the matter on to Missoula County Attorney Fred Van Valkenburg.

The audit determined that INSA hadn't provided UM with lobbying activity disclosure documents, which are required by law. It also prompted further unanswered questions for legislators and regents who expressed concern that INSA may have used federal funds for lobbying, which is a violation of federal law.

In response to the legislative audit, INSA executives Bailey and Larry Mortensen protested that Giacometto served as an "educational consultant," and not as INSA's lobbyist.

Acting as board chairman, Datsopoulos submitted a July 28, 2006, letter to UM's research office that explained why INSA never submitted lobbying activity disclosure documents.

The letter states that Giacometto received no funding, directly or indirectly, for lobbying activities, and claims Giacometto's lobbying company erroneously filed federal disclosure forms indicating he lobbied for INSA in 2004 and 2005.

Although INSA has asked Giacometto's lobbying firm to amend its records, it has not yet complied.

Datsopoulos explained the confusion this way: "People seem to use the term lobbyist and educational consultant interchangeably without carefully defining what a consultant is. I was told he served as INSA's educational consultant, which evidently is different than a lobbyist in these matters."

Whatever Giacometto's title, a former top administrator for INSA who was stationed in Washington, D.C., in 2004 and 2005 has no doubt Giacometto lobbied on behalf of INSA. He witnessed the lobbying activity firsthand, and met several times with Giacometto to talk about how to further develop INSA and its funding.

"Giacometto arranged meetings with representatives on the Hill, with politicians (Rep. Denny) Rehberg and Burns to talk about INSA programs and how much was needed to do those programs, and how to direct legislation to make that funding happen," said the former INSA employee, who spoke on the condition of anonymity because he continues to do government contracting work.

The source also shed light on INSA's close relationship with Burns.

"I was always told, and it was talked about freely among INSA employees, that everyone at INSA owed allegiance to Conrad Burns because he was funding everyone's salaries," he said. "There was great pressure on employees to give money to Burns' re-election campaign."

An expert in government contracting, the source said Bailey violated federal contract rules by purchasing items not approved by the contract. Bailey allegedly used the money as if it were grant money - not contract dollars - to hire consultants to work on unrelated projects.

"The money wasn't going towards product," the source said. "It was going to people's pockets."

Missoulian phone calls to Bailey went unanswered, as did calls and e-mail inquiries to Giacometto.

Earlier this month, the Capitol Hill newspaper Roll Call reported that Montana legislative auditors gave the FBI evidence not included in their June report indicating "there was clear criminal activity" involved in the alliance between INSA, Burns and Giacometto.

But state officials say Roll Call's report was incorrect.

"I don't do that sort of thing. I don't report to the FBI or the inspector general," said Legislative Auditor Scott Seacat. "What I do if I have evidence of fraud or theft, I contact the Montana attorney general."

The Missoulian's findings, which were later supported by the legislative audit, showed that INSA and UM shared an unusually tight loop of interconnected employees.

Seacat said his office gave federal investigators information regarding some of those relationships, which have been reported in his audit and in the Montana media.

As reported, Bailey and Lloyd Chesnut, UM's former vice president for research, created the space programs while working for and being paid by UM.

Shortly after INSA was formed in 2003, the men became paid employees of INSA, which raised warning flags for state auditors. INSA was awarded its funding through the UM office where the men were formerly employed, and both men were directly involved in the contracting process for INSA.

The unusual arrangement was further clouded by the fact that Chesnut's wife, Rollene, was also on INSA's payroll as the company's business manager.

Rollene Chesnut earned a \$104,000 salary in 2004, and continued working for INSA as business

manager until 2005 - two years after she and her husband moved to Texas in July 2003. While in Texas, Chesnut earned \$15,000 for serving as INSA's chairman from July to December 2003.

"In regards to the Roll Call story, I'm not sure what they are referring to when they state 'clear criminal activity,' " Seacat said. "We gave them information regarding documents we have from INSA making payments to Lloyd Chesnut and his wife."

If there is any potential criminal activity, Seacat said, he assumes it would be surrounding the Chesnuts' employment with INSA. Again, though, that information has been turned over to Van Valkenburg, the Missoula County attorney.

"I have talked with an FBI agent and an investigator with the NASA Office of Inspector General," Van Valkenburg said. "They are doing some interviewing of witnesses and have not completed their work. Until they do, I won't proceed any further."

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